

**MEETING MINUTES
MAY 18, 2005
EMPLOYMENT LAW ADVISORY COMMITTEE**

Attendees:

1. Employment Law Advisory Committee Members: Rich Anderson (Sakuma Bros.) Kris Tefft (AWB) Carolyn Logue (NFIB) Dave Johnson (WSBCTC) and Rebecca Saldana (SEIU)
2. L & I Staff: Rich Ervin, Mike Ratko, Janis Kerns, Carlena Anderson, Patricia Kennish, Christine Swanson, Sally Elliott, Patrick Woods, and Amanda Goss, AAG
3. Other Participants: Dave O'Meara, Representative John McCoy, Montie Barringer (WRA) Jill Reinmuth, Jeanni Garrell, and Jennifer Strus

Agenda Item	Discussion	Action	Due Date
Opening Remarks Introductions	Mike Ratko opened the meeting and stated this was the second official meeting of ELAC. Introductions were made around the table and audience members.		
Legislation review	<p><u>Administrative Remedies:</u></p> <p>Rep John McCoy, guest member spoke to ELAC requesting it work towards ironing out problems with the Administrative Remedies Bill. He stated he would like to see consistency, certainty, and protection for workers in this bill. Rep McCoy volunteered to have the final bill in the 2004 session sent to ELAC; Jill Reinmuth will send it out prior to the next meeting.</p> <p><u>Administrative Remedies, Minor Work, and Prevailing Wage Bills:</u></p> <p>Patrick Woods spoke as a follow up to Rep. McCoy's comments and to provide a report on results of other department request legislation.</p>	Jill Reinmuth Carlena Anderson	Before 8/1/05
Payroll deduction WAC	<p>Discussion on final draft of WAC 296-126-025, WAC 296-126-028, and WAC 296-126-030:</p> <p>Rich and Janis explained the final draft had several changes were made as a result of the comments provided by ELAC members at their January 14, 2005 meeting, and that the most significant change was that the deductions cannot go below the minimum</p>	<p>Public hearings set for: <u>Tumwater</u> July 26, 2005 @1:00 p.m.</p> <p>Department of Labor & Industries Bldg 7273 Linderson Way SW Tumwater, Washington</p> <p><u>Spokane</u></p>	

	<p>wage if they are for personal loans or purchases and that the change was now consistent with federal labor laws, which do not allow deductions for personal loans or purchases to reduce the employee's wages below the minimum wage. Federal law does allow certain deductions to go below the minimum wage and those were paralleled in the final version.</p> <p>Rick Anderson commented that he does not agree with the minimum wage threshold for deductions because that does not allow minimum wage workers to get a loan from the employer when they can't get them from any other source.</p> <p>Dave Johnson spoke in agreement with the minimum wage threshold requirement.</p> <p>Carolyn Logue stated that WAC 296-126-025 (1) and (3) were not clear and that (3) should be changed to reflect that an agreement for a deduction for wages to be forwarded to a third party could reduce the employee's wages below the minimum wage. L&I agreed to make that clarification.</p> <p>Kris Tefft requested that in the future, when a state law is proposed that is consistent with federal law, the department should send a copy of the federal law with the state version. Mr. Tefft also requested a copy of the federal laws regarding wage deductions be sent to all ELAC members. L&I agreed to both requests.</p> <p>Carolyn Logue requested clarification on WAC 296-126-025 (1) as it was not clear as to which</p>	<p>July 27, 2005 @ 11:00 a.m.</p> <p>Department of Labor & Industries Bldg 901 N. Monroe St., Ste 100 Spokane, Washington</p> <p><u>Yakima</u> July 28, 2005 @ 2:00 p.m.</p> <p>Department of Labor & Industries Bldg 15 West Yakima Ave., Suite 100 Yakima, Washington</p> <p>Federal law cites attached.</p>	6/27/05
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	<p>minimum wage would be in effect if the minimum wage increased during a worker's agreement. Language was suggested to clarify (1) by inserting the minimum wage "in effect at the time the work was performed". L&I agreed to that requested clarification.</p>		
Administrative Policies	<p>L&I explained that all of the policies except one on the agenda from 10:30 to noon related to the legislative change in 2003 to RCW 49.12 to bring public employees under the coverage of all of the provisions of the Industrial Welfare Act and its regulations. Each policy was reviewed and discussed. (SEE ATTACHED CHART)</p> <p>Rich explained the need for the driving policy, ES.C.4.3 because state regulations may cause jeopardy to employers in Washington when federal child labor laws apply and are more restrictive. This policy had been stakeholdered two years ago and again within the past few months.</p> <p>Discussion on updating the Minor Work Regulations for other consistency problems between state and federal regulations, i.e., Friday hours for 14/15 year old minors; slicers and grinders for all minors and others.</p> <p>ELAC suggested putting in examples, putting notices in the department's Quarterly Newsletter, advertise in public service announcements for the media to circulate, send to list serve.</p>	<p>ELAC review completed. ELAC recommended formal adoption and publication of:</p> <p>Updates-</p> <ul style="list-style-type: none"> • ES.A.1 • ES.A.6 • ES.A.9.1 • ES.C.1 • ES.C.2 • ES.C.6 <p>New-</p> <ul style="list-style-type: none"> • ES.A.9.2 • ES.A.9.3 • ES.A.9.4 • ES.A.9.5 • ES.A.9.6 • ES.A.9.7 • ES.A.9.8 <p>Policies have been updated and are in process of going on the website. These updated policies will also be included in the next Quarterly report and will be sent out on the list serve once they are published.</p>	
Working plan	<p>Carolyn Logue: Administrative Policies - should they be in policy or in rule?</p> <p>Kris Tefft: Move Administrative Policies into WAC's; preference is</p>		

	<p>regulation over policy</p> <p>Logue/Tefft: Prioritize changes of administrative policies for consideration to move to WACs</p> <p>Ervin: L&I will provide a brief summary of the policies to ELAC.</p> <p>Logue: Make information clear and easy to understand by both employer and employee.</p> <p>L&I agrees—will provide list of policies and summary of each before next meeting—new topic for next meeting.</p>	Summary attached.	6/27/05
	<p>Ervin: Travel time may need to be revised as an interim policy as weighted average for overtime calculations for both general and prevailing wage hours.</p> <p>L&I will revise policies ES.B.1 and B.2 on payroll deductions when the WAC has been adopted.</p> <p>Logue: The mission should be to eliminate policies when the rules become clear; the new deduction rule is clear and there is no reason to have a policy. Tefft agreed it is fairly clear, but if need arises, L&I can write a new policy.</p> <p>Tefft: Some policies are broad and need to be modified to look like federal law; some narrowly construed, and need to make it clear they are more protective than the federal regulations.</p>	Appoint member from Business and Labor to review travel time w/ department	8/1/05
	<p>Suggestion to use interactive website with rules and policies.</p> <p>Dave Johnson suggested that the weighted average policy be revised without delay.</p> <p>Suggestion to consider revising the Salary Basis WAC for pay</p>	<p>Janis Kerns Carlena Anderson</p> <p>Evaluating- Rich/Janis/Cindy</p> <p>Janis Kerns Sally Elliott</p>	<p>**Continuing updates</p> <p>**</p> <p>**</p>

	<p>deductions for serious infractions based on the 8/23/04 change under federal law.</p> <p>Suggestion that changes to RCW 49.46 need to be made for white collar exemptions to be consistent with federal language. Where state regulations differ from federal and there are discrepancies, to adopt federal language.</p> <p>Suggestions for a work group after the necessary rule changes have been prioritized.</p>	<p>Evaluating for FY07 request legislation Rich Ervin/Janis Kerns</p> <p>To be determined.</p>	<p>**</p> <p>8/1/05</p>
Next meeting	The next ELAC meeting will be held in Tumwater on August 1, 2005 from 9:00 a.m. to 4:00 p.m. in S118/119.	PLEASE NOTE CHANGE IN MEETING DATE.	